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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,388	08/15/2001	Gary J. Sullivan	MSI-751US	1590
22801	7590	07/25/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			FLETCHER, JAMES A	
			ART UNIT	PAPER NUMBER

2616

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/931,388

Applicant(s)

SULLIVAN, GARY J.

Examiner

James A. Fletcher

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to: See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 27 April 2005 have been fully considered but they are not persuasive.

In re **page 5**, applicant's representative states: "this specifically recited equation and, in turn, the process that employs it is in no way anticipated by the process described in Adachi's Fig. 10 and the related description that appears in its disclosure."

The examiner respectfully disagrees. The instant invention is concerned with calculating a value of "time," wherein that calculation is performed on the equation:  $\text{time} = x + (\text{frame count} * \text{UPF} + \text{offset})/\text{UPS}$ , as recited in independent claim 32.

Adachi covers all the points directed in the arguments presented by the applicant's representative:

"(1) Taking a measure of time associated with a media sample and ascertained from the media sample's timecode..." Clearly, Adachi measures time from the time code of the media, as disclosed in equation 6 in column 12, line 23.

"(2) adding an offset that specifies a difference between the time represented by the timecode associated with the media sample and a represented time and a component (i.e. the UPF parameter) that comprises a number of basic units of time to be added for each field count increment to provide a sum..." Adachi also clearly discloses adding an offset to a time code value (and therefore a field count), as shown in equation 9 in column 13, line 9.

"(3) which is multiplied by a frame count which is a value associated with a frame number of the media sample to provide a product..." Again, in equation 9, Adachi multiplying the sum of the time and the offset by a frame count in equation 9.

"(4) which is then divided by a parameter (i.e. the UPS) which comprises a number of basic units of time in a timebase per unit of time." As written in the claim, this limitation can be read as simply converting from seconds to milliseconds, as an example, and as such, the examiner notes that milliseconds are inherently elements of seconds, or any other time measure larger than a millisecond. Further, fractional milliseconds are inherently elements of smaller time measurements.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 32-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Regarding claims 32-36**, the claims simply recite a mathematical formula applied to elements of a data stream. There is no functionality involved in the independent claim or the dependent claims to make the claims statutory.

In order to render the claims statutory, they must recite that the results of the calculation is output to some purpose or device.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Adachi et al (5,091,899).

**Regarding claim 32**, Adachi et al disclose a method of processing media samples comprising:

- providing one or more media samples individual ones of which have a timecode; and
- calculating a represented time associated with one or more of the media samples in accordance with the following equation:

$$\text{time} = x + (\text{frame count} * \text{UPF} + \text{offset})/\text{UPS}, \text{ where}$$

- x is a measure of time associated with the media sample and ascertained from the media sample's timecode;
- "frame count" is a value associated with a frame number of the media sample;
- "UPF" comprises a number of basic units of time to be added for each field count increment;
- "offset" specifies a difference between the time represented by the timecode associated with the media sample and a represented time (); and
- "UPS" comprises a number of basic units of time in a time base per unit of time.

This process appears to define a method of recalculating a time code from a frame-based code into one that can have any resolution desired by the user by calculating a time code based in fractional seconds from the frame time code base, and adding incremental offsets to the frame start threshold timings. Adachi et al disclose time code recalculation using offsets from the frame start threshold as shown in the processes of Fig. 10.

**Regarding claim 33**, Adachi et al disclose a method of processing media samples, wherein "x" is associated with a number of seconds specified by the number of whole seconds represented in a SMPTE timecode, either as a total number of seconds or as parameters representing hours, minutes, and seconds (Col 12, line 23 " $N = 1800 \times 60 \times H + 1800 \times M + 30 \times S + F$ ").

**Regarding claim 34**, Adachi et al disclose a method of processing media samples, wherein "offset" is selected as a function of a true frame rate of the media samples (Fig 17 shows an offset of 0.2 Frame).

**Regarding claim 35**, Adachi et al disclose a method of processing media samples, wherein the true frame rate comprises a fractional number of frames per unit of time (Fig 17 shows Recording Frame values as having fractional components).

**Regarding claim 36**, Adachi et al disclose a method of processing media samples, wherein the unit of time comprises seconds (Col 12, lines 15-21 "When hour, minute, second, and frame of the SMPTE time codes are represented by H, M, S, and F respectively, the total frame number...N from 0 hour 0 minute 0 second 0 frame is given by an equation [6]").

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (571) 272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAF  
June 30, 2005

  
James J. Groody  
Supervisory Patent Examiner  
Art Unit ~~262~~ 2616